

FILED

DEC 19 2002

CLERK, ~~U. S. DISTRICT COURT~~
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

**MICHAEL DEAN GONZALES,
Petitioner**

MO-99-CA-072
CAPITAL HABEAS

FINAL JUDGMENT

On this day the Court entered an Order granting Respondent's Partial Motion for Summary Judgment and granted Petitioner Michael Dean Gonzales a new sentencing hearing, based, in part, on Respondent's Notice of Error. The Court now enters its Final Judgment pursuant to Federal Rule of Civil Procedure 58.

Accordingly, **IT IS HEREBY ORDERED** that Respondent's Partial Motion for Summary Judgment be **GRANTED**. The jury verdict and judgment as to conviction therefore remain in full force and effect. To this extent, Petitioner's Application for Writ of Habeas Corpus is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Petitioner's Writ of Habeas Corpus as to all sentencing issues is **GRANTED** and thus that Michael Dean Gonzales' sentence of death is **VACATED**.

IT IS FURTHER ORDERED that Petitioner Michael Dean Gonzales is **GRANTED** a **NEW SENTENCING HEARING** and this cause is **REMANDED** to the 358th District Court of Odessa, Ector County, Texas.

IT IS FURTHER ORDERED that the **STAY OF EXECUTION** shall remain in effect until Petitioner is re-sentenced.

IT IS FINALLY ORDERED that all other pending motions, if any, are **DENIED AS MOOT.**

Signed on this 19th day of December, 2002.



ROYAL FURGESON
United States District Judge
Western District of Texas